

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Duane Ashmeade,

Petitioner,

V.

Charles L. Ryan; et al.,

Respondents.

No. CV-15-00937-PHX-NVW (JZB)

ORDER

and

DENIAL OF CERTIFICATE OF APPEALABILITY AND IN FORMA PAUPERIS STATUS

Pending before the Court is the Report and Recommendation (“R&R”) of Magistrate Judge John Z. Boyle (Doc. 22) regarding petitioner’s Amended Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 17). The R&R recommends that the Petition be denied and dismissed with prejudice. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R. (R&R at 11 (citing 28 U.S.C. § 636(b)(1); 1); Fed. R. Civ. P. 6(a), 6(b) and 72). Petitioner filed objections on April 7, 2016 (Doc. 25). Respondents filed a Response to Petitioner’s Objections on April 8, 2016 (Doc. 26).

The Court has considered the objections and response and reviewed the Report and Recommendation de novo. *See* Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1) (stating that the court must make a de novo determination of those portions of the Report and Recommendation to which specific objections are made). The Court agrees with the Magistrate Judge’s determinations, accepts the recommended decision within the meaning of Rule 72(b), Fed. R. Civ. P., and overrules Petitioner’s objections. *See* 28

1 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole
2 or in part, the findings or recommendations made by the magistrate”).

3 IT IS THEREFORE ORDERED that Report and Recommendation of the
4 Magistrate Judge (Doc. 22) is accepted.

5 Having considered the issuance of a Certificate of Appealability from the order
6 denying Petitioner’s Petition for a Writ of Habeas Corpus, a Certificate of Appealability
7 and leave to proceed in forma pauperis on appeal are denied because Petitioner has not
8 made a substantial showing of the denial of a constitutional right.

9 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment denying
10 and dismissing Petitioner’s Amended Petition for Writ of Habeas Corpus filed pursuant
11 to 28 U.S.C. § 2254 (Doc. 17) with prejudice. The Clerk shall terminate this action.

12 Dated this 11th day of April, 2016.

13
14 
15 Neil V. Wake
16 United States District Judge